House & Senate Transportation Reauthorization Bills

Comparison Of Major Policy Provisions

	H.R. 4348 - an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund	Moving Ahead for Progress in the 21st Century *S. 1813* Senate EPW Committee	Conf. Report Provisions
General			
Duration	90 days (end of Federal FY – September 30, 2012)	2 Years	2 Years
Funding		$109 billion	$101 billion
Return to states (CA currently 92%)	92%	95% (Estimated CA apportionments FY 2012 -$3,765,401,521; FY 2013 - 3,829,179,495.	For FY 2013, same as state's share of total formula apportionments in 2012; for FY 2014, at least 95% return from the FY 2012 amount; estimated FY 2013- $3,543,739,939; FY 2014 - $3,574,110,167.
Funding level	Status quo (from SAFETEA-LU)	Status quo plus CPI	CBO March 2012 baseline plus 1.4% inflation index per FY for discretionary funding; mandatory spending not indexed.
Highways			
Highway Program	Status quo (from SAFETEA-LU)	Section 1106 (Page 50) Consolidates National Highway System, Interstate Maintenance & Highway Bridge Program into National Highway Performance Program (NHPP)	Section 1106 (Page 29) Consolidates National Highway System, Interstate Maintenance & Highway Bridge Program into National Highway Performance Program (NHPP)
Bridges	Status quo (from SAFETEA-LU)	Section 1111 (Page 86) Requires states to spend a certain amount of funding on repair of bridges and interstate pavement if they fall below minimum standards established by USDOT.	
Bridge Repair*	Status quo (from SAFETEA-LU)	Adopted into Senate managers' amendment package (Franken-Blunt 1543). Provides funding and flexibility to states to repair and rehabilitate the 180,000 federal-aid bridges that are not on the National Highway System (NHS). These bridges would become eligible for a 40% share of the highway program funds (National Highway Performance Program) that aren't currently required for repairing	

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		the National Highway System.	
Bridge Repair*	Status quo (from SAFETEA-LU)	Blunt-Casey Amendment 1540 passed on 3/13/12; would authorize a 15% set aside for off-system bridges that are also not on the National Highway system, with Secretary authority to reduce if he deems justified for specific projects.	Section 1108 (page 40) authorize a 15% set aside for off-system bridges that are also not on the National Highway system, with Secretary authority to reduce if he deems justified for specific projects.
Surface Transportation Program (STP)	Status quo (from SAFETEA-LU)	Section 1108 (Page 74) Replaces STP with Transportation Mobility Program (TMP) giving states and regions flexible dollars to invest in highways, transit projects, freight rail projects, bike/ped projects, travel demand management, etc. Reduces % for sub allocation from 62.5% in California to 50% but increases overall program funding.	Section 1108 (Page 37) reduces apportionment for sub-allocation from 62.5% in California to 50% for state and 50% local areas. Keeps transportation enhancements in STP (does not transfer to CMAQ); renames as transportation alternatives or (TA); re-bundles safe routes to schools and recreational trails into new category and provides for allocation of 50% of the TA set aside to localities and 50% to state discretion.
Highway Safety Improvement Program (HSIP)	Status quo (from SAFETEA-LU)	Section 1112 (Page 101) Sets aside 8% of HSIP funds for data collection on crashes and creating database for safety issues on all public roads. States must develop strategic highway safety plan within one year using process approved by USDOT; states are required to also develop performance targets on fatalities and serious injuries.	
Equity Bonus			
Return to State provision	92% as under SAFETEA-LU	(Page 43) Minimum return on state percentage shares of Highway Account tax payments is <u>95%</u> (up from 92% under SAFETEA-LU)	For FY 2013, same as state's share of total formula apportionments in 2012; for FY 2014, at least 95% return from the FY 2012 amount paid by state to HTF.

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CMAQ			
Congestion Mitigation and Air Quality Program	Status quo (from SAFETEA-LU)	Section 1113 (Page 128) CMAQ funds provided to states and Tier I MPOs (urban); in states w/ non-attainment areas, 50% of funds are sub allocated to Tier I MPOs based on area's status with National ambient air quality standards. Funds cannot be used to construct new travel lanes except for HOV/HOT lanes. Current provision requires that 30% of funds to local agencies be spent on retrofit of construction equipment. Reserves an amount equal to that provided in Transportation Set-Aside in FY'09 to be spent on transportation enhancements, safe routes to school, environmental mitigation, etc.	Section 1113 (Page 158) re-authorizes the CMAQ program, providing funds for use on transportation projects to help meet the goals of the Clean Air Act. Prior MAP-21 provision requiring use of funds for construction equipment diesel retrofit is deleted from bill. Stipulates no funds for a project that results in construction of new roads or lanes that are available to single-occupant vehicles unless the project is for high-occupancy vehicles, available to single-occupant vehicles only at non-peak travel times. Requires MPO's serving populations of over 1M to develop performance plans identifying eligible projects for CMAQ funding and describing how they will achieve the emissions and congestion reduction targets.
Innovative Finance			
Transportation Infrastructure Finance & Innovation (TIFIA)	Status quo (from SAFETEA-LU)	Section 3002 (Page 558) Expands TIFIA program to $1B and modifies program from competitive application process to a rolling application process. Modifies application for TIFIA loans to make easier for public transportation agencies with dedicated revenue sources. Allows applicants to enter into master credit agreements to provide	Section 2001 (Page 207) Authorizes a total of $1.75 billion — $750 million for FY 2013 and $1 billion for FY 2014 — for the Transportation Infrastructure Finance and Innovation Act Program (TIFIA); modifies the program by increasing the maximum federal share of

 Effective: June 29, 2012

	H.R. 4348 - an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund	Moving Ahead for Progress in the 21st Century *S. 1813* Senate EPW Committee	Conf. Report Provisions
		funding for a suite of projects at once.	project costs from 33 percent to 49 percent.
Infrastructure Banks		N/A.	
Tolling*		Carper Amendment 1670 withdrawn; would have extended or expanded the value pricing pilot program; interstate system reconstruction and rehabilitation pilot program. Expands ability of states to apply for authority to toll certain Federal-aid highways with proceeds available for investments in the corridor to help create alternatives in that tolled corridor.	
Tolls*		Hutchinson Amendment 1568 withdrawn; would have prohibited the use of funds to approve or authorize tolls on any existing federal-aid highways, with exceptions for new tolled capacity or converting High-Occupancy Vehicle (HOV) lanes to High-Occupancy Toll (HOT) lanes. As of 2008 in the SCAG region, there are approximately 325 lane miles of toll roads with a planned increase of up to 2,500 lane miles by 2035. Would reduce the authorized slots under the Interstate System Reconstruction and Rehabilitation Program from 3 to 2.	
Planning			
Metropolitan Planning Organizations	Status quo (from SAFETEA-LU)	Section 1201 (Page 245) Groups MPOs into 2 tiers; Tier I MPOs serve a metropolitan planning area with population of 1 million and above; Tier II MPOs serve an urbanized area with population of more than 200,000 up to 1 million. MPOs serving small urbanized areas with population fewer than 200,000 but more than 50,000 may request	Section 1201 (Page 99) reauthorizes much of the current metropolitan planning law; retains MPO designation at 50K population; requires that within two years of enactment the structure of all MPOs include officials of public agencies that administer or operate public

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		designation as a Tier II MPO with the USDOT Secretary. MPO's not so designated are dissolved & their responsibilities shall transfer to state.	transportation systems. New provision requires MPO planning process to use a performance-based approach to development of transportation plans and monitoring of projects, in coordination with the state. Provision authorizing a Governor inclusion of project(s) in TIP without MPO concurrence is <u>not</u> included.
MPO Planning Funding	Status quo (from SAFETEA-LU)	No longer a percent set aside of core programs, now based on a share of 2009 apportionments.	Taken off the top from states' total highway formula apportionment in whatever percentages they had from the 2009 apportionments.
MPO Planning & Funding*	Status quo (from SAFETEA-LU)	Adopted into Senate managers amendment package (Cardin-Cochran 1549). Provides local communities and metropolitan regions with access to the Additional Activities pot of funding through a competitive grant program that can be used for main street revitalizations, boulevard conversions, new bike facilities, or safety improvements. Large metro areas to receive some funds directly.	
MPO Funding – Penalties*		Adopted into Senate managers' amendment package (Landrieu 1630). Ensures that metropolitan areas (MPOs) aren't exposed to financial penalties if states do not meet their state requirements for fixing roads and bridges or develop a state highway safety plan.	
Freight		**Page 176 of S. 1813**	**Page 66**

	H.R. 4348 - an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund	Moving Ahead for Progress in the 21st Century *S. 1813* Senate EPW Committee	Conf. Report Provisions
Freight Policy		The amended bill removes the national freight infrastructure grant program, as well as the provision to create an Office of Freight Planning and Development in the Office of the Secretary at USDOT. Likewise, Senator Cantwell's amendment calling for the creation of an Office of Freight Planning and Development at US DOT, and Senator Lautenberg's amendment calling for the creation of a competitive National Freight Infrastructure Grants program did not make it into the leadership-approved list of amendments. Remaining in the amended bill is Section 1115 establishing a National Freight Program consisting of a Secretary designated primary freight network, portions of the Interstate system not designated as part of the primary freight network and critical rural freight corridors. Not later than one year after enactment, the USDOT Secretary shall also designate a Primary Freight Network consisting of not more than 27,000 centerline miles of existing roadways that are most critical to freight movement. Up to 3,000 additional centerline miles critical to future movement of freight on the primary network. In designating the primary freight network, the Secretary shall now take into consideration the value of freight among the other criteria; in a State's designation of a critical rural freight corridor, the State can now consider a road that carries a high volume of freight, as measured by the total	(Sec. 1115) – Establishes a National Freight Policy – as appeared in the EPW's original freight title; calls for the establishment of a national freight network and for a national freight strategic plan. <u>No implementation funding provided ($2 billion in Senate MAP 21 taken out)</u> Calls for the prioritization of projects to improve freight movement (Sec. 1116 – or page 70); State Freight Advisory Committees encouraged; State Freight Plans encouraged; Increased Federal Share of funding for freight projects (up to 95% for projects on Interstate system; 90% for other projects). Eligible projects include: • construction, reconstruction, rehabilitation, operational improvements directly relating to improving freight movement; • intelligent transportation system

	H.R. 4348 - an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund	Moving Ahead for Progress in the 21st Century *S. 1813* Senate EPW Committee	Conf. Report Provisions
		tonnage or total value of freight, compared to other rural roads in the State. The freight program calls for the USDOT, in consultation with appropriate public and private stakeholders, to develop a national strategic freight plan within 3 years of enactment, to be updated every 5 years thereafter. The plan must include the following: • an assessment of the condition and performance of the national freight network, • identification of significant bottlenecks on 20-year forecasts of freight volumes for a 20 year period, • identification of major freight corridors, an assessment of regulatory/ statutory/ financial barriers that impede freight system performance, • best practices for improving performance of freight network, • best practices to mitigate impacts of freight movement on communities, • a process for addressing multistate projects and encouraging multi-jurisdictional collaboration, and • strategies to improve intermodal connectivity. States are required to develop performance targets in order to obligate funds apportioned for freight.	and other technology to improve the flow of freight; • efforts to reduce the environmental impact of freight movement; • railway-highway grade separation; • truck-only lanes; • improvements to freight intermodal connectors and truck bottlenecks; • other defined projects.

 Effective: June 29, 2012

	H.R. 4348 - an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund	Moving Ahead for Progress in the 21st Century *S. 1813* Senate EPW Committee	Conf. Report Provisions
Freight Funding		To be distributed to states via formula funding, the aggregate amount that the state must use for freight projects must <u>either</u> be figured by multiplying an amount that represents 110% of the project's state fiscal year funding by the total percent of Primary Freight Network within that state divided by the sum of the Primary Freight Network miles within the State, and the total Interstate mileage within the state not a part of the Primary Freight Network; <u>or</u>, an amount equal to the total Apportionment of the State.	
Project Acceleration		**Subtitle C (Page 338 – 392)**	**Subtitle C (Pages 126 – 154)**
Expedited Environmental Process **(Carried over from H.R. 7 provisions)**	• NEPA delegation. The bill makes permanent the ability of the Secretary to delegate NEPA authority to States, and removes the limitation that only five States may receive this authority. The bill expands this authority from applying only to highway projects to applying to highway, transit, and multimodal projects. • Federal/State Environmental Law Reciprocity. The bill establishes a program to allow for State environmental regulations to be used in place of NEPA or other federal environmental regulations, provided they are substantially equivalent. This applies to highway, transit, and multimodal projects. • Contracting Efficiency. Two phase construction contracts, for preconstruction and construction activities, are permitted. • Funding Threshold. The bill exempts projects from NEPA projects that use less than $10 million in federal	• Sections 1301 and 1302 (Page 342) Expands eligibility of early acquisition of property prior to completion of NEPA environmental review under circumstances provided in bill; • Section 1303 (Page 348) Two Phase Construction. Provides for two phase construction and permits phase I (preconstruction) to commence and proceed prior to completion of NEPA environmental review process. • Sections 1308 (Page 359) NEPA Delegation. Removes 'Pilot' from program title and authorizes states to assume determinations and responsibilities imposed under NEPA, subject to review by the Secretary, and a state's waiving of its sovereign immunity.	Section 1301 thru 1323 • Project Acceleration - specifically exempts from the NEPA review process repair/reconstruction of infrastructure damaged or destroyed by natural disaster; • Authorizes USDOT to grant categorical exclusions to highway projects taking place in a right-of-way; requires USDOT to issue regulations regarding what types of right-of-way projects would be provided such exclusions within 150 days of enactment; • provides categorical exclusions to projects that receive limited federal funding - projects receiving less than

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	funds, or that have 15 percent or less of overall project costs coming from federal funds. • Environmental Review Efficiencies. The bill makes a number of changes to expedite the NEPA process, including requiring concurrent reviews of permits; limitations on judicial review; integrating decisions made in the planning process into the NEPA process; allowing for programmatic, rather than project-by-project, reviews; and mandating certain deadlines for project approval. • Categorical Exclusions for Projects in the Right-of-Way. The bill requires the Secretary to categorically exclude from NEPA any highway projects constructed in existing right-of-way.	State may terminate participation at any time. • Sections 1306 & 1309 (Pages 354 & 363) Categorical Exclusions. Provides for categorical exclusions of certain components of multimodal projects as provided under NEPA; as well as for projects within right of way and directs Secretary to prepare new categorical exclusions as provided. • Section 3013 (Page 371) Accelerated Decision-making. Establishes accelerated, specific decision timelines for environmental review with penalty provisions for agencies failing to make decisions by the deadlines in amounts, depending upon project, of between $10K and $20K per week, until final decision is reached, not to exceed 1% of funds made available to the agency.	$5 million in federal funds or cost less than $30 million of which no more than 15% is federal funds; • Expedited Review - for most projects requires agencies with oversight responsibilities conduct environmental review concurrently, rather than sequentially; authorizes the lead agency to grant categorical exclusions for project components if participating agency has previously granted exclusion for a similar project; • Financial Penalties - establishes accelerated timelines environmental review with penalty provisions for agencies failing to make decisions by the deadlines in amounts, between $10K and $20K per week, until final decision is reached, capped at 7% of agencies' annual administrative budget.
Consolidation/ Elimination			
Programs Eliminated or Consolidated into larger program.		Consolidates existing programs as follows: Interstate Maintenance, National Highway System & Highway Bridge Program into National Highway Performance Program; Equity Bonus, AHDS, Border Infrastructure Program, Railway Highway Crossings, and STP into Transportation Mobility Program; and Transportation Enhancements, Safe Routes to Schools and Recreational Trails	

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	H.R. 4348 - an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund	Moving Ahead for Progress in the 21st Century *S. 1813* Senate EPW Committee	Conf. Report Provisions
		into CMAQ.	
Other Provisions			
Projects of National and Regional Significance (PNRS)		Continues PNRS grant program and authorizes $1B for FY 2013 from general fund revenues, not HTF revenues. Provides modification to allow local government and other entities to apply directly for funding. Eligible projects are surface transportation or a program of integrated surface transportation projects that facilitate intermodal interchange, transfer and access to and from intermodal facilities (including ports), as well as public transportation projects. Applications must include data on current system performance as well as estimated system improvements resulting from completion of the project. Selections made by the Secretary must meet a certain number of criteria, such as: Project would improve national surface transportation system; Project is based on engineering results; Project cannot be readily completed without funding support from this program; Project would generate national economic benefit, reduce congestion, improve safety; Project is supported by an "acceptable degree" of non-Federal financial commitments. Additional consideration should be given to the following criteria: Project leverages Federal investment by	Sec. 1120 (page 90) – retains the PNRS authorized in existing law, and specifies that eligible applicants for PNRS grant funds include: a state department of transportation or a group of state departments of transportation; a tribal government or consortium of tribal governments; a transit agency; or a multi-State or multi-jurisdictional group of the agencies as described. Requires Congressional approval of projects selected for PNRS grant funds by requiring USDOT to submit a report to House T&I Committee and Senate EPW Committee identifying how selected projects significantly improve the performance of the federal highway system according to specified factors. PNRS is authorized to receive $500 million in FY 2013 and $0 in FY 2014

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		encouraging non-Federal funding sources such as PPPs; Project is able to begin construction within 18 months; Project incorporates innovative financing and project delivery; Project stimulates multi-state collaboration; Project helps maintain/protect environment; Project contributes to an equitable geographic distribution of funds.	